

constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 7, 1993, by a viva-voce vote; May 26, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 1993, House granted request of the Senate; May 30, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 22, 1993, by a non-record vote; May 27, 1993, House granted request of the Senate for appointment of Conference Committee; May 30, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.

CHAPTER 911

S.B. No. 1077

AN ACT

relating to the regulation of speech-language pathology and audiology and the continuation of the State Committee of Examiners for Speech Pathology and Audiology.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. In this Act:

(1) "Board" means the State [Texas] Board of *Examiners for Speech-Language Pathology and Audiology* [Health].

(2) ~~["Committee" means the State Committee of Examiners for Speech-Language Pathology and Audiology.~~

[(3)] "Department" means the Texas Department of Health.

(3) [(4)] "Person" means an individual, corporation, partnership, or other legal entity.

(4) [(5)] "Speech-language pathologist" means an individual who practices speech-language pathology, who makes a nonmedical evaluation, who examines, counsels, or provides habilitative or rehabilitative services for persons who have or are suspected of having speech, voice, or language disorders, and who meets the qualifications of [set forth in] this Act.

(5) [(6)] "The practice of speech-language pathology" means the application of nonmedical principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of *communication, including speech, voice, [or] language, oral pharyngeal function, or cognitive processes*, for the purpose of rendering or offering to render an evaluation, prevention, or modification of these disorders and conditions in individuals or groups of individuals. Speech-language pathologists may perform [the] basic audiometric screening tests and *aural rehabilitation or habilitation* [hearing therapy procedures consistent with their training].

(6) [(7)] "Audiologist" means a person who practices audiology, who makes a nonmedical evaluation, who examines, counsels, or provides habilitative or rehabilitative services for persons who have or are suspected of having a hearing *or vestibular* disorder, and who meets the qualifications of [set forth in] this Act.

(7) [(8)] "The practice of audiology" means the application of nonmedical principles, methods, and procedures for the measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction related to [hearing and] disorders of *the auditory or vestibular systems* [hearing and] for the purpose of rendering or offering to render services modifying communicative disorders involving speech, language, auditory or vestibular function, or other aberrant behavior relating to hearing loss. An audiologist

may engage in any tasks, procedures, acts, or practices that are necessary (A) for the evaluation of hearing; (B) for training in the use of amplification including hearing aids; [or] (C) for the making of earmolds for hearing aids; (D) *for the fitting, dispensing, and sale of hearing aids; or (E) for the management of cerumen.* An audiologist may participate in consultation regarding noise control and hearing conservation, may provide evaluations of environment or equipment including calibration of equipment used in testing auditory functioning and hearing conservation, and may perform the basic speech and language screening tests and procedures consistent with his or her training.

(8) "*Licensed assistant in speech-language* [(9) "*Speech-language*] pathology [aide]" means a person who meets minimum qualifications which the board [committee] may establish for *licensed assistants* [speech-language-pathology-aides] and who works under the direction of a licensed speech-language pathologist. The qualifications for licensure as a *licensed assistant in speech-language pathology* [aide] shall be uniform and shall be less than those established by this Act as necessary for licensure as a speech-language pathologist.

(9) "*Licensed assistant in audiology*" [(10) "*Audiology-aide*"] means a person who meets minimum qualifications which the board [committee] may establish for *licensed assistants* [audiology-aides] and who works under the direction of a licensed audiologist. The qualifications for licensure as a *licensed assistant in* [an] audiology [aide] shall be uniform and shall be less than those established by this Act as necessary for licensure as an audiologist.

SECTION 2. Section 3, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. **BOARD [COMMITTEE]; MEMBERSHIP.** (a) The State Board [Committee] of Examiners for Speech Pathology and Audiology is created within the Texas Department of Health. The board [committee] consists of nine members appointed by the governor [to take office on the effective date of this Act]. Members of the board [committee] must have been residents of the State of Texas for two years immediately preceding appointment and must be representative of varying geographic regions of the state and from varying employment settings. Six members must have been engaged in rendering services, teaching, or research in speech-language pathology or audiology for at least five years and must meet the qualifications for *full* licensure under this Act. Of these six members, three members shall be audiologists, three members shall be speech-language pathologists. All [Except for the initial appointees, all] six shall hold valid licenses under this Act. Three members shall be selected from the general public. One of the three public members of the board [committee] must be a physician licensed to practice in the State of Texas and board certified in otolaryngology or pediatrics. The two remaining public members may not:

- (1) be licensed by an occupational regulatory agency in the field of health care;
- (2) be employed by and participating in the management of an agency or business entity that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment;
- (3) own, control, or have a direct or indirect interest in more than 10 percent of a business entity that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment; or
- (4) be an officer, employee, or paid consultant of a trade association in the field of health care. A member of the board [committee] may not be related within the second degree of affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or a paid consultant of a trade association in the health-care field.

(b) An appointment to the board [committee] shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, in a health-related area may not serve as a member of the board or act as the general counsel to the board.

(d) *Each board member shall comply with the board member training requirements established by any other state agency that is given authority to establish the requirements for the board.*

SECTION 3. Section 4, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. TERMS; OFFICERS; QUORUM; EXPENSES. (a) ~~Members [The term of initial appointees to the board shall be determined by lot as follows: three members are appointed for terms which expire August 31, 1985; three members are appointed for terms which expire August 31, 1987; and three members are appointed for terms which expire August 31, 1989. After the initial appointments, members]~~ are appointed for staggered terms of six years, with three terms beginning September 1 of each odd-numbered year. Members of the board [committee] shall serve until the expiration of the term to which they have been appointed or until their successors have qualified. A person may not be appointed to serve more than two consecutive terms.

(b) The board [committee] shall be organized annually and select a chairperson, vice-chairperson, and a secretary-treasurer. ~~The [initial chairperson shall be a person who meets the qualifications for licensing under this Act. After September 1, 1984, the]~~ chairperson shall hold a valid license under this Act.

(c) Five members of the board [committee] constitute a quorum to do business.

(d) The board [committee] shall hold at least two regular meetings each year [at which time an examination as defined in Section 12 of this Act shall be offered]. Additional meetings may be held on the call of the chairperson or at the written request of any three members of the board [committee]. ~~The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments. [At least 14 days' advance notice of the committee meeting is required.]~~

(e) Board [Committee] members receive no compensation for their services; however, each member of the board [committee] is entitled to a per diem and travel allowance at the rate set by the legislature for state employees in the General Appropriations Act for each day that the member engages in the business of the board [committee].

SECTION 4. Section 5, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. DUTIES AND POWERS OF THE BOARD [COMMITTEE]. (a) ~~The board [Subject to the approval of the board, the committee]~~ shall adopt rules necessary to administer and enforce this Act, including rules that establish standards of ethical practice.

(b) With the assistance of the department, the board [committee] shall administer, coordinate, and enforce the provisions of this Act; evaluate the qualifications of applicants; provide for the examination of applicants; and issue subpoenas, examine witnesses, and administer oaths under the laws of the State of Texas.

(c) With the assistance of the department and in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), the board [committee] shall conduct hearings and keep records and minutes necessary to the orderly administration of this Act.

(d) The board [committee] with the aid of the department shall investigate persons engaging in practices that violate the provisions of this Act.

(e) A person who holds a license to practice speech-language pathology or audiology in this state is governed and controlled by the rules adopted by the [committee and approved by the] board [of health].

(f) The conferral or enumeration of specific powers elsewhere in this Act shall not be construed as a limitation of the general powers conferred by this section.

(g) The board [committee] shall be represented by the attorney general and the district and county attorneys of this state.

(h) The board [committee] may appoint subcommittees to work under its jurisdiction[, subject to the approval of the board].

(i) *The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.*

(j) *The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.*

(k) *The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.*

SECTION 5. Section 6, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. EMPLOYEES OF THE BOARD [COMMITTEE]. The Texas Department of Health shall provide such administrative and clerical employees as are necessary to carry out the provisions of this Act.

SECTION 6. Section 7, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. SEAL AND AUTHENTICATION OF RECORDS. The board [committee] shall adopt a seal by which it shall authenticate its proceedings. Copies of the proceedings, records, and acts of the board [committee] and certificates purporting to relate the facts concerning the proceedings, records, and acts, signed by the secretary-treasurer and authenticated by the seal, are prima facie evidence in all courts of this state.

SECTION 7. Subsections (a) and (b), Section 8, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Licenses shall be granted either in speech-language pathology or audiology independently. Persons may be licensed in both areas if they meet the qualifications. *The board by rule shall establish qualifications for dual licensure in speech-language pathology and audiology and may develop a full range of licensing options and establish rules for qualifications as necessary.*

(b) A person may not practice or represent himself or herself as a speech-language pathologist or audiologist in this state [after August 31, 1984,] unless he or she is licensed in accordance with the provisions of this Act.

SECTION 8. Subsections (b) through (p), Section 9, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) This Act does not prevent or restrict the activities and services and the use of an official title by persons holding a valid and current certification in *speech-language pathology [speech and hearing therapy]* from the Central Education Agency if those persons perform speech-language pathology or audiology services solely as a part of their duties within an agency, institution, or organization under the jurisdiction of the Central Education Agency. *Effective September 1, 1994, the Central Education Agency certificate in speech-language pathology shall require the new applicant to hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association and to pass a national examination in speech-language pathology or audiology approved by the board.* If persons affected by this subsection perform work as a speech-language pathologist or audiologist apart from their positions within an agency, institution, or organization of the Central Education Agency, they must have a license issued by the board [committee], except that a person affected by this subsection may perform speech and hearing screening procedures without compensation without having a license issued by the board [committee]. *In this subsection, "equivalent" means graduate level course work and practicum from a program accredited by the American Speech-Language-Hearing Association. Course work and practicum requirements are the same as those established by the board for a license in speech-language pathology or audiology. The clinical fellowship year experience or internship may not be a requirement for the Central Education Agency certificate in speech-language pathology.*

(c) This Act does not restrict the activities and services of students ~~[or interns]~~ pursuing a course of study leading to a degree in speech-language pathology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent, provided that these activities and services constitute a part of their supervised course of study ~~and [or internship year; that after September 1, 1984,]~~ they are supervised by a person licensed under this Act,^[;] and that they are designated by a title such as ~~["Speech-Language Pathology Intern" or]~~ "Speech-Language Pathology Trainee" or other title clearly indicating ~~their professional preparation [the training]~~ status ~~[appropriate to their level of training]~~.

(d) This Act does not restrict activities and services of students ~~[or interns]~~ in audiology pursuing a course of study leading to a degree in audiology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent, provided that these activities and services constitute a part of their supervised course of study, ~~[or internship year; that after September 1, 1984,]~~ they are supervised by a person licensed under this Act,^[;] and that they are designated by a title such as ~~["Audiology Intern" or]~~ "Audiology Trainee" or other title clearly indicating ~~their professional preparation [the training]~~ status ~~[appropriate to their level of training]~~. *A student of audiology in an accredited college or university program is exempt from Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, if the student's activities and services constitute a part of the student's supervised course of study or practicum experience.*

~~(e) [This Act does not restrict the performance of speech-language pathology or audiology services in this state by a person not a resident of this state who is not licensed under this Act, if the services are performed for no more than five days in a calendar year and if the person meets the qualifications and requirements for application for licensure under this Act.~~

~~[(f)]~~ This Act does not restrict the use of an official title by an individual teaching in a university or college training program, provided that the person is not engaged in the practice of speech-language pathology or audiology and does not supervise persons engaged in the practice of speech-language pathology or audiology.

~~(f) [(g)]~~ This Act does not permit a person to perform an act that would be in violation of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes). ~~[This Act does not permit a person to provide medical or surgical diagnosis or treatment of laryngeal or ear disorders.]~~

~~(g) [(h)]~~ Nothing in this Act shall be construed as restricting or preventing a physician or surgeon from engaging in the practice of medicine in this state. This Act does not restrict speech or hearing testing or evaluation *personally* conducted by a licensed physician or surgeon.

~~(h) [(i)]~~ This Act does not apply to persons employed by the Texas Department of Health in its programs concerned with hearing or speech services as long as they are performing duties under the jurisdiction of the Texas Department of Health.

~~[(j)]~~ This Act does not apply to a person who shows evidence of having received training by the Texas Department of Health in one of the *communication, speech, language, or hearing screening training programs* approved by that agency, provided that all activities performed under this exception shall be limited to screening *as defined by board rule* ~~[of hearing sensitivity]~~. *An individual who has received training by the department in one of the communication, speech, language, or hearing screening training programs approved by the department may not practice speech-language pathology or audiology or represent the individual as a speech-language pathologist or audiologist.*

~~(i) [(k)]~~ This Act does not license a person to sell hearing aids as defined in Chapter 366, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes).

~~[(l)]~~ This Act does not prevent or restrict a person licensed *under Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, [by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids]* from engaging in the practice of fitting and dispensing hearing aids. *This Act does not prohibit a fitter and dispenser of hearing aids licensed under Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et*

seq., Vernon's Texas Civil Statutes), and its subsequent amendments, from measuring human hearing using an audiometer or by any means to make a selection, adaptation, or sale of a hearing aid, including making impressions for earmolds to be used as part of a hearing aid, and any post-fitting counseling to fit and dispense hearing aids. A person who is not an audiologist who is licensed to fit and dispense hearing aids under Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, may not practice speech-language pathology or audiology or represent the person as a speech-language pathologist or audiologist or by any other term restricted by this Act.

(j) ~~[(m)]~~ This Act does not prevent persons in an industrial setting from engaging in hearing testing as a part of a hearing conservation program in compliance with regulations of the Occupational Safety and Health Administration, provided that such persons are certified by an agency acceptable to the Occupational Safety and Health Administration.

(k) ~~[(n)]~~ This Act does not prevent or restrict *communication*, speech, language, or hearing screenings as defined by board rule ~~[sensitivity screening evaluations]~~ conducted by registered nurses licensed by the laws of this state and practicing in accordance with the standards of professional conduct and ethics promulgated by the rules and regulations of the Board of Nurse Examiners.

~~[(o)] This Act does not prevent the use of the title "Certified Hearing Aid Audiologist" by a person so certified by the National Hearing Aid Association if the person is a licensed hearing aid dispenser and uses the title solely in connection with fitting and dispensing hearing aids and does not represent himself to be a licensed audiologist under this Act.~~

~~[(p)] Nothing in this Act shall be construed as restricting or preventing a licensed psychologist from engaging in the practice of psychology within the scope of the activities permitted under that license.]~~

SECTION 9. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 9A to read as follows:

Sec. 9A. FITTING AND DISPENSING OF HEARING AIDS BY PERSONS REGULATED UNDER THIS ACT. (a) A person licensed as a speech-language pathologist under this Act may not fit, dispense, or sell hearing aids unless the person meets the specific requirements for fitting and dispensing hearing aids under this Act or Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments.

(b) A person who meets the requirements of this Act for licensure as an audiologist or audiologist intern who fits and dispenses hearing aids must:

- (1) register with the board the person's intent to fit and dispense hearing aids;
- (2) adhere to the profession's code of ethics;
- (3) comply with the federal Food and Drug Administration guidelines required for fitting and dispensing hearing aids;
- (4) provide a written contract for services in this state that contains the name, mailing address, and telephone number of the board; and
- (5) follow the guidelines adopted by board rule for a 30-day trial period on every hearing aid purchased.

(c) If audiometric testing is not conducted in a stationary acoustical enclosure, sound level measurements must be conducted at the time of the testing to ensure that ambient noise levels meet permissible standards for testing threshold to 20 dB based on the most recent American National Standards Institute "ears covered" octave band criteria for permissible ambient noise levels during audiometric testing. A dBA equivalent level may be used to determine compliance. The board shall adopt rules necessary to enforce this subsection.

(d) A licensed hearing aid fitter and dispenser or licensed audiologist may not sell a hearing aid to a person under 18 years of age unless the prospective user, parent, or guardian presents the hearing aid fitter and dispenser or audiologist with a written statement signed by a licensed physician who specializes in diseases of the ear that states that the prospective user's hearing loss has been medically evaluated during the six-month

period preceding the date the statement is presented and that the prospective user may be considered a candidate for a hearing instrument.

SECTION 10. Section 10, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. QUALIFICATION OF APPLICANTS FOR LICENSE; *INTERN LICENSE.*
(a) To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1) possess a minimum of ~~[at least]~~ a master's degree with a major in *not less than one of the areas of communicative sciences or disorders from a program accredited by the American Speech-Language-Hearing Association in [speech-language pathology or audiology from]* an accredited or approved college or university;

(2) submit transcripts from one or more colleges or universities showing successful completion of course work in amounts set by the ~~[committee with the approval of the]~~ board in the following areas:

(A) information about normal development and use of speech, language, and hearing;

(B) information about evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) information pertaining to related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3) have successfully completed at least ~~36~~ [30] semester hours in courses that are acceptable toward a graduate degree by the college or university in which they are taken, at least ~~24~~ [21] of which are within the professional area for which the license is requested and at least six of which are in audiology for the applicant for a license in speech-language pathology ~~[license]~~ or *not less than six of which are in speech-language pathology for the applicant for a license in audiology;*

(4) have completed ~~the~~ [a] minimum number of ~~[300 clock]~~ hours *established by the board of supervised clinical experience with individuals who present a variety of communication disorders. This[—and this] experience must have been obtained within his or her educational [training] institution or in one of its cooperating programs and under the supervision of a person holding a valid license to practice speech-language pathology or audiology[—provided during the first year of this Act, the supervision may be under a person who would have met the qualifications for a license under this Act];* and

(5) have obtained ~~[the equivalent of nine months of]~~ full-time supervised professional experience *as defined by board rule* in which bona fide clinical work has been accomplished in the major professional area for which the license is being sought, under the supervision of a qualified person acceptable to the board ~~[committee]~~ pursuant to guidelines approved by the board. *The supervised professional [which] experience must have begun after completion of the academic and clinical experience required by this section.*

(b) *An applicant who has completed the requirements of Subsections (a)(1) through (4) of this section may only be licensed as an intern under this Act. An applicant who has successfully completed all academic and clinical requirements of Subsections (a)(1) through (4) of this section but who has not had the degree officially conferred on the applicant may be licensed as an intern under this Act. The board by rule shall prescribe the terms by which an applicant may practice under an intern's license under this subsection. The board by rule shall establish general guidelines and renewal procedures for the holder of an intern license. An audiology intern is exempt from Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments.*

SECTION 11. Section 11, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. APPLICATION FOR LICENSE. Each person desiring a license under this Act shall make application to the board ~~[committee]~~ on a form and in the manner the board ~~[committee]~~ prescribes. The application shall be accompanied by the application fee which may not be refunded by the board ~~[committee]~~.

SECTION 12. Section 12, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. EXAMINATION. (a) Each applicant shall *pass a validated examination approved [be examined]* by the board [committee] and shall pay fees in a manner prescribed by the board [to the committee, at least 30 days prior to the date of examination, a nonrefundable examination fee prescribed by the committee]. The examination shall be administered [given] at least twice each year [at a time and place established by and under the supervision of the committee].

(b) *The board by rule may establish procedures for the administration of the examination. The board by rule [committee] may require a [examine by] written or oral examination or [by] both. The board [committee] shall maintain a record of all examination scores for at least two years after the date of examination.*

(c) Standards for acceptable performance shall be determined by the board [committee].

(d) The board [committee] may examine in whatever theoretical or applied fields of speech-language pathology or audiology it deems appropriate. It may examine the candidates with regard to their professional skills and their judgment in the utilization of speech-language pathology or audiology techniques or methods.

(e) Persons who fail the examination may be examined at a subsequent time if they pay another nonrefundable examination fee. No applicant who has taken and failed to pass two examinations may take the examination until the person has submitted a new application together with a nonrefundable application fee and presented evidence acceptable to the board [committee] of additional study in the area for which licensure is sought. *A person who fails a licensing examination administered under this Act shall contact the testing service administering the examination to request an analysis of the person's performance on the examination.*

(f) *Not later than the 30th day after the date on which a licensing examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national or state testing service and the testing service does not directly notify examinees of the results of the examination, the board shall notify examinees of the results of the examination not later than the 14th day after the date on which the board receives the results from the testing service. If the notice of examination results graded or reviewed by a national or state testing service will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day. [The committee may waive the examination for applicants who:*

(1) present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the committee to be equivalent to those set forth in this Act; or

(2) hold the Certificate of Clinical Competence of the American Speech-Language Hearing Association in the area for which a license is being sought.]

SECTION 13. Section 13, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. LICENSING UNDER SPECIAL CONDITIONS. (a) ~~[The committee on request must waive educational, professional experience, and examination requirements for licensure in speech-language pathology for applicants who hold a baccalaureate or graduate degree, are fully certified by the Central Education Agency in speech and hearing therapy or in the judgment of the committee have met equivalent requirements, and within two years prior to the effective date of this Act were engaged in the practice of speech pathology on proof of bona fide practice of speech pathology, presented to the committee in the manner prescribed by the committee's rules, provided they file an application for licensure with the committee or the board of health before January 1, 1986. Such licenses shall be issued without delay and shall be renewed in the same manner as licenses granted under other provisions of this Act.~~

~~(b) The committee on request shall waive educational and professional experience requirements for a license in audiology for an applicant who, on the effective date of this Act, holds a graduate degree from an accredited institution of higher education with a major in speech-~~

~~language pathology or audiology, and has been continuously engaged in the practice of audiology for ten years immediately preceding the effective date of this Act, provided the applicant files an application for licensure with the committee on or before January 1, 1986. Such an applicant must pass the licensing examination under Section 12 of this Act not later than August 31, 1986.~~

~~[(e)] The board [committee] may [waive the examination and] grant a provisional license [licensure] to an applicant who:~~

~~(1) possesses a license in good standing as a speech-language pathologist or an audiologist in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this Act;~~

~~(2) has passed a national or other examination relating to speech-language pathology or audiology that is recognized by the board; and~~

~~(3) is sponsored by a person licensed by the board under this Act with whom the provisional license holder may practice under this section [presents proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the committee to be equivalent to those set forth in this Act].~~

~~(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) of this section if the board determines that compliance with that subsection constitutes a hardship to the applicant.~~

~~(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this Act to the holder of a provisional license under this section if:~~

~~(1) the provisional license holder passes the examination required by Section 12 of this Act;~~

~~(2) the board verifies that the provisional license holder has the academic and experience requirements for a license under this Act; and~~

~~(3) the provisional license holder satisfies any other license requirements under this Act.~~

~~(d) The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.~~

~~(e) [(d)] The board [committee] may waive the examination and grant licensure to an applicant who holds the Certificate of Clinical Competence of the American Speech-Language Hearing Association [or has met equivalent requirements in the area for which a license is sought].~~

SECTION 14. Subsections (a), (c), and (d), Section 14, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The board [committee] shall issue a license to an applicant who meets the requirements of this Act and who pays to the board [committee] the initial nonrefundable license fee.

(c) On receiving an application provided for under Subsection (b) of this section accompanied by the nonrefundable application fee, the board [committee] shall issue a temporary certificate of registration which entitles the applicant to practice audiology or speech-language pathology for a period ending eight weeks after the conclusion of the next examination given after the date of issue.

(d) The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on the original expiration date shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable [All licenses expire and become invalid one year from the date of issuance if not renewed].

SECTION 15. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 14A to read as follows:

Sec. 14A. TEMPORARY LICENSE; INACTIVE STATUS. (a) The board by rule may provide for the issuance of a temporary license.

(b) The board by rule may provide for a person who holds a license under this Act to be placed on inactive status. Rules adopted under this section shall include a time limit for a license holder to remain on inactive status.

SECTION 16. Subsections (a), (c), and (d), Section 15, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Each licensed speech-language pathologist or audiologist shall annually pay the nonrefundable renewal fee for a renewal of his license. A 60-day grace period shall be allowed. After expiration of the grace period, the board [committee] may renew each license after payment of a penalty set by the rules. No person who applies for renewal within two years after the date of expiration of the license may be required to submit to an examination as a condition to renewal. *An application for a license filed not later than the second anniversary of the expiration date of the person's license is considered an application for renewal.*

(c) *Renewal* ~~[Within three years of the effective date of this Act, renewal]~~ of a license is contingent on the applicant's meeting uniform *mandatory* continuing education requirements *that shall be established by the board [committee].* These continuing education requirements must be of such a nature that they can be met without necessitating an extended absence from the licensee's county of residence. ~~[Notice of continuing education requirements shall be sent to all persons licensed under this Act at least 12 months prior to the time that the person's license renewal is dependent on completion of the requirements.]~~ Continuing education requirements shall be sent to new applicants with the forms on which they are to apply for licensure. Notification or changes in continuing education requirements shall be sent to persons licensed under this Act at least one year prior to the date on which the new requirements become effective.

(d) *If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license. However, the board may renew without reexamination an expired license of a person who within the last three years was licensed in this state and is currently licensed and has been in practice in another state for the two years preceding application. An applicant who was licensed in this state but whose license has been expired for more than three years may reapply for a license by meeting the current licensing requirements. The board may adopt rules concerning the reinstatement of a license in a case of medical hardship. To renew an expired license the person must pay to the board a fee that is equal to the examination fee for the license. [A suspended license is subject to expiration and may be renewed as provided in this Act, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license revoked on disciplinary grounds is subject to expiration as provided in this Act, but it may not be renewed. If it is reinstated after its expiration, the licensee as a condition of reinstatement shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of the license revocation.]*

SECTION 17. Section 16, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. FEES. ~~[The amount of fees initially prescribed in connection with a license as a speech-language pathologist or audiologist may not exceed the following:~~

[(1) application fee;	\$75
[(2) examination fee;	\$50
[(3) initial license fee;	\$75
[(4) license renewal fee;	\$75

[(5) delinquency fee:	\$50
[(6) temporary license fee:	\$25
[(7) duplicate license fee:	\$10]

The board ~~[committee]~~ by rule shall establish *reasonable and necessary* fees. ~~The[, and such] fees set by the board shall be adjusted so that the total fees collected, in the aggregate, shall be sufficient to meet the expenses of administering this Act [and so that unnecessary surpluses in the fund provided for in Section 20 of this Act are avoided].~~

SECTION 18. Section 17, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. DENIAL, SUSPENSION, AND REVOCATION. (a) The board ~~[committee]~~ may refuse to issue a license to an applicant or may suspend or revoke the license of any licensee for any of the following causes:

- (1) obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) selling, bartering, or offering to sell or barter a license or certificate of registration;
- (3) unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public as defined by the rules established by the board ~~[committee]~~ or violation of the code of ethics adopted and published by the board ~~[committee]~~;
- (4) violating any lawful order or rule rendered or adopted by the board ~~[committee]~~; or
- (5) violating any provisions of this Act.

(b) The board ~~[committee]~~ shall deny an application for or suspend or revoke or impose probationary conditions on a license as ordered by the board ~~[committee]~~ in any decision made after hearing as provided in this Act. One year from the date of revocation of a license under this Act, application may be made to the board ~~[committee]~~ for reinstatement. The board ~~[committee]~~ shall have discretion to accept or reject an application for reinstatement and may require an examination for the reinstatement.

(c) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of an offense involving moral turpitude is deemed to be a conviction within the meaning of this Act. At the direction of the board ~~[committee]~~ the license may be suspended or revoked or the board ~~[committee]~~ may decline to issue a license when the time for appeal of the conviction has elapsed or the judgment or conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order allowing a person to withdraw his or her plea of guilty, or setting aside the verdict of guilty, or dismissing the information or indictment.

(d) *In addition to the other disciplinary actions authorized by this section, the board may issue a written reprimand to a license holder who violates this Act or require that a license holder who violates this Act attend continuing education programs. The board may specify the number of hours that must be completed by an individual license holder to fulfill the requirements of this subsection.*

(e) *If a license suspension is probated, the board may require the license holder to:*

- (1) *report regularly to the board on matters that are the basis of the probation;*
- (2) *limit practice to the areas prescribed by the board; or*
- (3) *continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.*

(f) *The schedule of sanctions adopted by the board by rule shall be used for any sanction imposed as the result of a hearing conducted by the board.*

SECTION 19. Subsection (b), Section 18, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If a person other than a licensed speech-language pathologist or audiologist has engaged in any act or practice which constitutes an offense under this Act, a district court of any county on application of the board ~~[committee]~~ may issue an injunction or other appropriate order restraining such conduct.

SECTION 20. Section 19, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. PROCEDURES FOR DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE. (a) A person whose application for a license is denied is entitled to a hearing before the *board* [committee] if such person submits a written request to the *board* [committee].

(b) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the *board* [committee] in writing and under oath. The charges may be made by any person or persons.

~~(c) [The chairperson of the committee shall fix a time and place for a hearing and shall cause a written copy of the charges or reason for denial of a license, together with a notice of the time and place fixed for the hearing, to be served on the applicant requesting the hearing or the licensee against whom the charges have been filed at least 20 days prior to the date set for the hearing. Service of charges and notice of hearing may be given by certified mail to the last known address of the licensee or applicant.]~~

~~[(d) At the hearing the applicant or licensee has the right to appear either personally or by counsel or both, to produce witnesses, to have subpoenas issued by the committee, and to cross-examine opposing or adverse witnesses.]~~

~~[(e) The committee shall determine the charges on their merits and enter an order in a permanent record setting forth the findings of fact and law and the action taken. A copy of the order of the committee shall be mailed to the applicant or licensee at his or her last known address by certified mail.]~~

~~[(f) An individual whose application for a license has been refused or whose license has been cancelled, revoked, or suspended by the committee may take an appeal, within 20 days after the order is entered, to any district court of Travis County or to any district court of the county of his or her residence.]~~

~~[(g) In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts in Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.]~~

~~[(h) All proceedings under this Act shall conform to the requirements of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a [6252-13g], Vernon's Texas Civil Statutes), except as modified by this section.]~~

SECTION 21. Section 20, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. DISPOSITION OF FUNDS RECEIVED. (a) All funds received by the *board* [committee] under this Act shall be deposited in accordance with applicable state law in the State Treasury in a separate fund to be known as the speech-language pathology and audiology fund and be appropriated to the *board* [Texas Department of Health] solely for administration of this Act.

(b) ~~All [After August 31, 1984, all]~~ expenses for the administration of the Act shall be paid from fees collected by the *board* [committee] under this Act.

~~[(c) There is hereby appropriated \$80,000 to the speech-language pathology and audiology fund for the implementation of this Act, said funds coming from the General Revenue Fund for the first year provided that the first \$80,000 of application and license fees shall be returned to the General Revenue Fund as they are received.]~~

SECTION 22. Section 22, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 22. SUNSET PROVISION. The State *Board* [Committee] of Examiners for Speech-Language Pathology and Audiology is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the *board* [committee] is abolished and this Act expires September 1, 2005 [1993].

SECTION 23. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 23 to read as follows:

Sec. 23. COMPLAINT PROCEDURE IN GENERAL. (a) The board shall keep an information file about each complaint filed with the board. The board's information file shall be kept current and contain a record for each complaint of:

- (1) all persons contacted in relation to the complaint;*
- (2) a summary of findings made at each step of the complaint process;*
- (3) an explanation of the legal basis and reason for a complaint that is dismissed; and*
- (4) other relevant information.*

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The board by rule shall adopt a form to standardize information concerning complaints made to the board. The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

(e) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

SECTION 24. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Sections 24 and 25 to read as follows:

Sec. 24. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection shall:

- (1) distinguish between categories of complaints;*
- (2) ensure that complaints are not dismissed without appropriate consideration;*
- (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;*
- (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and*
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.*

(b) The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(c) The director of the board shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 25. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

- (1) informal disposition of a contested case under Section 19(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and*

(2) *informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.*

(b) *Rules adopted under this section must:*

(1) *provide the complainant, if applicable and permitted by law, an opportunity to be heard;*

(2) *provide the licensee an opportunity to be heard; and*

(3) *require the presence of an attorney to advise the board or board's employees.*

(c) *The attorney under Subsection (b)(3) of this section must be either a legal representative of the department who represents the board or the board's employees or a representative of the office of the attorney general.*

SECTION 25. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 26 to read as follows:

Sec. 26. MONITORING OF LICENSE HOLDER. The board by rule shall develop a system for monitoring license holders' compliance with the requirements of this Act. Rules adopted under this section shall include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.

SECTION 26. Section 21, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is repealed.

SECTION 27. This Act takes effect September 1, 1993.

SECTION 28. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 30, 1993, by a viva-voce vote; May 22, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 1993, House granted request of the Senate; May 29, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 18, 1993, by a non-record vote; May 28, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.

CHAPTER 912

S.B. No. 1110

AN ACT

relating to state regulation and assistance in the field of fire protection, including the powers and duties of the Texas Commission on Fire Protection; providing a penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (a), Section 419.004, Government Code, is amended to read as follows:

(a) The commission is composed of the following 12 members:

(1) three chief officers with a minimum rank of battalion chief employed in fire departments as defined by Section 419.021 that are under the jurisdiction of the commission, at least two of whom must be the heads of their fire departments, and one of whom must be employed by a political subdivision with a population of less than 50,000, one must be employed by a political subdivision with a population of 50,000 to 200,000, and one must be employed by a political subdivision with a population of more than 200,000;